

**Agriculture and Food, Regulatory
Services
R70-940
Standards and Testing of Motor Fuel**

NOTICE OF PROPOSED RULE

(Repeal and Reenact)
DAR FILE NO.: 42422
FILED: 12/28/2017

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this rule change is to adopt the 2017 version of the NIST Handbook which establishes the national standards regarding motor fuel. While the Department of Agriculture and Food (Department) is adopting most of the national standards, this rule also specifies areas of the national standard which the Department is not adopting. It is necessary to make these changes to ensure that our motor fuel is meeting the national standards which will facilitate the continued participation in interstate commerce. Additionally, many of the requirements of the previous rule will be made unnecessary with the adoption of the national standards and are being removed.

SUMMARY OF THE RULE OR CHANGE: This rule adopts the 2017 version of the NIST Handbook 130 which establishes the uniform engine fuels and automotive lubricant regulations. This rule eliminates unnecessary permitting requirements that have previously been required. It specifies specific areas where the state is not going to adopt the national standard and instead have state specific standards. This rule proposes a standard color code be adopted by gasoline stations. It clarifies that the state will adopt the ASTM specification D4814-17 for automotive spark-ignition engine fuel.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Section 4-33-104 and Subsection 4-2-103(i)

TITLE OF MATERIALS INCORPORATED BY REFERENCE:

- ◆ Updates National Institute of Standards and Technology Handbook 130, "Uniform Laws and Regulations in the Area of Legal Metrology and Engine Fuel Quality, Chapter IV, Part G, "Uniform Engine Fuels and Automotive Lubricants Regulation", published by National Institute of Standards and Technology, 11/01/2016

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** This proposed rule change is not anticipated to have a cost or saving to the state. This rule will not change the time or manner in which inspections are done nor does it require the state to do any additional testing to what the state is already conducting.

◆ **LOCAL GOVERNMENTS:** There are no anticipated costs or benefits to local governments as this rule neither requires action from nor provides benefits to local governments.

◆ **SMALL BUSINESSES:** This proposed rule change will have an affect on various types of businesses because of the various industries that are involved in the production of motor and automotive fuel. It is anticipated this rule change will have an affect on petroleum refineries, gasoline stations, and petroleum transporters. There are no anticipate cost to refineries because this rule does not proscribe the refineries take any additional actions to comply. It is anticipated that the standardization of a color code for the lids at filling stations will have an estimated cost of up to \$40 per year depending on how many types of fuel are being sold at the gasoline stations. The adoption of the ASTM specification D4814-17 for automotive spark-ignition fuel is a saving to the petroleum refineries because currently these refineries are equipped to refine to the 85 octane specifications. This proposed rule change allows for that to continue regardless of changes to the national standards saving the refineries an inestimable amount in retooling costs in order to meet the octane specification. The adoption of the national water tolerance level instead of the previous zero water tolerance standard could lead to a potential savings by avoiding having tanks serviced due to the presence of water. These benefits inestimable due having no way of estimating who would have been out of compliance under the previous rule.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** Consumers will see a benefit in knowing that the fuel they receive is meeting a national standard. The addition of the color code requirement will help to prevent the possibilities of consumers accidentally receiving the wrong type of fuel.

COMPLIANCE COSTS FOR AFFECTED PERSONS: The compliance cost for those affected will be minimal, an estimated \$40 a year to meet the standardized color code.

COMMENTS BY THE DEPARTMENT HEAD ON THE FISCAL IMPACT THE RULE MAY HAVE ON BUSINESSES:

This proposed rule change clarifies the requirements for the industry by adopting a national standard, while at the same time this rule acknowledges the special needs of the state and establishes some exemption to the national standards to fit those needs of the industry in the state. This proposed rule change meets the needs of the industry, and continues to protect the consumer by ensuring that fuel being purchased is of the grade and quality that is being advertised. The additional requirements of a standardized color code will protect the consumer and will clarify for transporters where to place which type of fuel. The adoption of a particular standard in relation to the spark-ignition engine fuel in the state will give added security to the refineries in the state that the standard is not going to be changing for them even if the national standard changes.

THE FULL TEXT OF THIS RULE MAY BE INSPECTED, DURING REGULAR BUSINESS HOURS, AT:

AGRICULTURE AND FOOD
REGULATORY SERVICES
350 N REDWOOD RD
SALT LAKE CITY, UT 84116-3034
or at the Office of Administrative Rules.

DIRECT QUESTIONS REGARDING THIS RULE TO:

- ◆ Brett Gurney by phone at 801-538-7158, by FAX at 801-538-7126, or by Internet E-mail at bgurney@utah.gov
- ◆ Melissa Ure by phone at 801-538-4976, or by Internet E-mail at mure@utah.gov
- ◆ Scott Ericson by phone at 801-538-7102, by FAX at 801-538-7126, or by Internet E-mail at sericson@utah.gov or mail at PO Box 142003, Salt Lake City, UT 84114-2003

INTERESTED PERSONS MAY PRESENT THEIR VIEWS ON THIS RULE BY SUBMITTING WRITTEN COMMENTS NO LATER THAN AT 5:00 PM ON 02/14/2018

THIS RULE MAY BECOME EFFECTIVE ON: 02/21/2018

AUTHORIZED BY: LuAnn Adams, Commissioner

*This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described above. Inestimable impacts for Non-Small Businesses are described below.

Appendix 2: Regulatory Impact to Non-Small Businesses

There are approximately 1,100 gasoline station registered in the state of Utah (NAICS 447110, NAICS 447190). Approximately 300 of these gasoline stations are non-small business. All gasoline stations will have to comply with the standardized color coding. The cost associated with the regulation is the cost of the paint necessary to paint the lids to the different fuel types in accordance with the color code and the time of it will take an employee to paint the lids for the tanks. As it will be necessary to repaint the lids every year, there will be an ongoing cost of \$40 per year.

There are a total of seven petroleum refineries (NAICS 3241100) operating in the Utah. These businesses will experience a fiscal savings associated with the adoption of the ASTM specification D4814-17. The full impact to these non-small businesses cannot be estimated as the necessary data are unavailable.

The Commissioner of the Department of Agriculture and Food, LuAnn Adams, has reviewed and approved this fiscal analysis.

Appendix: Regulatory Impact Analysis for Small and Non-Small Businesses

Fiscal Costs	FY 2018	FY 2019	FY 2020
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$40	\$40	\$0
Non-Small Businesses	\$40	\$40	\$40
Other Person	\$0	\$0	\$0
Total Fiscal Costs:	\$40	\$40	\$40
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits:	\$0	\$0	\$0
Net Fiscal Benefits:			
	\$0	\$0	\$0

R70. Agriculture and Food, Regulatory Services.

R70-940. Standards and Testing of Motor Fuel.

R70-940-1. Authority and Scope.

~~[Section promulgated under Authority of Section 4-33-4 and Subsection 4-2-2(1)(j).~~

~~B. Scope: This rule establishes the requirements for the blending and sale of motor fuel in the state of Utah.~~

R70-940-2. Standards.

~~Motor fuels are to meet the following standards:~~

~~A. "Octane." (R+M)/2. ASTM D 4814 (ASTM -- American Standard of Testing Materials).~~

~~B. "Vapor Pressure." ASTM D-323 on Reid Vapor Pressure and ASTM's Information Document on Oxygenated Fuels, Section 4.2.1.~~

~~C. "Distillation." ASTM D-86 and ASTM revised D-4814 relative to alcohol blends (along with ASTM's Information Document on Oxygenated Fuels). Additionally, Gasoline and Gasoline-Ethanol Blends shall meet the following requirements:~~

~~(1) The most recent version of ASTM D 4814, "Standard Specification for Automotive Spark-Ignition Engine Fuel," except that volatility standards for unleaded gasoline blended with ethanol shall meet but not be more restrictive than those adopted under the rules, regulations, and Clean Air Act waivers of the U.S. Environmental Protection Agency (which includes rules promulgated by the State, and Federally-approved State Implementation Plans (SIP's)). Gasoline blended with ethanol shall be blended under any of the following three options:~~

~~(a) The base gasoline used in such blends shall meet the requirements of ASTM D 4814 and shall have a minimum distillation temperature of 77 deg C (170 deg F) at 50 volume percent evaporated, or~~

_____ (b) The base gasoline shall meet the requirements of ASTM D 4814 and the blend shall have a minimum distillation temperature of 66 deg C (150 deg F) at 50 volume percent evaporated, or

_____ (c) The base gasoline used in such blends shall meet all the requirements of ASTM D 4814 except distillation, and the blend shall meet the requirements of ASTM D 4814, except for vapor pressure.

_____ (2) Blends of gasoline containing 9-10 percent ethanol shall not exceed the ASTM D 4814 vapor pressure limits by more than 1.0 psi from June 1 through September 15 of each calendar year. Gasoline containing less than 9 percent ethanol by volume must comply with D4814 vapor pressure limits during the period. Gasoline containing up to 10 percent ethanol by volume shall not exceed the ASTM D 4814 vapor pressure limits by more than 1.0 psi from September 16 through May 31 of successive years:

_____ D. "Water Tolerance." ASTM D-4814.

_____ E. "Phase Separation." Must be homogenous, no phase separation.

_____ F. "Corrosivity." ASTM D-4814.

_____ G. "Benzene." ASTM D-3606.

_____ H. "Flash Point." ASTM D-93 or D-56.

_____ I. "Gravity." ASTM D-1298.

_____ J. "Sulfur." (X-ray method) ASTM D-2622, 1266, 1552, 2622 or 4294.

_____ K. "Aromatics." ASTM D-1319.

_____ L. "Leads." ASTM D-3237.

_____ M. "Cloud point." ASTM D-2500.

_____ N. "Conductivity." ASTM D-2624.

_____ O. "Cetane." ASTM D-976 or 4737.

_____ P. "Cosolvents." Methanol or ethanol-based fuels shall include such cosolvents as are required to increase the water tolerance of the finished gasoline blend to the level specified in R70-940-2-D above.

_____ Q. "Method of Operation." Equipment shall be operated only in the manner that is obviously indicated by its construction or that is indicated by instructions on the equipment.

_____ R. "Maintenance of Equipment." All equipment in service and all mechanisms and devices attached thereto or used in connection therewith shall continuously be maintained in proper operating condition throughout the period of such service.

_____ S. "Product Storage Identification." The fill connection for any petroleum product storage tank or vessel supplying retail motor fuel devices shall be permanently, plainly, and visibly marked as to product contained. When the fill connection device is marked by means of color code, the color key shall be conspicuously displayed at the place of business.

R70-940-3. Labels.

_____ All motor fuel kept, offered or exposed for sale or sold containing at least one percent by volume ethanol must be labeled in a prominent, conspicuous manner, "This fuel contains up to 10% ETHANOL".

_____ A. Letters on the label must be at least 1 1/2 inches high and in contrasting colors.

_____ B. Labels must be located on the face of each dispenser near the area designating the grade of the product.

R70-940-4. Preparation.

_____ All storage tanks and equipment must be purged and cleansed before using methanol, ethanol or ether blend motor fuels.

R70-940-5. Water Content.

_____ All storage tanks must be kept free from water content.

R70-940-6. Bill of Lading.

_____ Bulk sales of all motor fuels shall be accompanied by a copy of the bill of lading and a delivery ticket containing the following information:

_____ A. Name and address of the vendor and purchaser.

_____ B. Date delivered.

_____ C. Quantity delivered and the quantity upon which the price is based.

_____ D. Identification of the product sold, including grade and indicating the percent of methanol, ethanol or ethers in the blend.

_____ E. The above information must be available at each retail outlet and furnished to the inspector upon request.

R70-940-7. Blending.

_____ A. Blending of motor fuels will be done only at facilities equipped to accurately measure the products to be blended. The finished blend must meet the requirements of octane, vapor pressure, distillation, and other standards as outlined by ASTM.

_____ (1) The Department may issue a temporary approval for the blending of gasoline and ethanol provided that the operator has a Department-approved plan in place to assure the blended product meets the referenced requirements. The temporary approval shall not exceed 12 months.

_____ B. At retail locations, a separate fixed tank or a method approved by the Utah State Department of Agriculture and Food shall be used for blending the "methanol or ethanol-based fuel" into the gasoline.

R70-940-8. Fuel Shortage.

_____ The Commissioner of Agriculture and Food may waive the standard in R70-940-2(C) for a county if there is sufficient evidence that a motor fuel shortage is imminent and the standard is determined to be a primary cause.]

_____ (1) Promulgated and enforced by authorities outlined in Utah Code, Title 4 Chapter 33 Motor Fuel Inspection Act.

_____ (2) Scope: This rule establishes motor fuel performance specifications and monitoring standards to ensure consumer confidence in fuel quality.

R70-940-2. Standards.

_____ (1) Gasoline and gasoline-ethanol blends shall have a minimum Anti-Knock Index (AKI) of 85.

_____ (2) The Department adopts by reference motor fuel regulations outlined in the 2017 version of NIST Handbook 130; "Uniform Laws and Regulations in the area of legal metrology and engine fuel quality", Chapter IV, Part G, "Uniform Engine Fuels and Automotive Lubricants Regulation" with the following exceptions:

_____ (a) Section 2.1.1, the Department adopts ASTM specification D4814-17, "Standard Specification for Automotive Spark-Ignition Engine Fuel".

(b) Section 2.1.2, Gasoline-Ethanol blends shall not exceed ASTM D4814-17 Table 1 vapor pressure limits by more than:

(i) 1.0 psi, when gasoline-ethanol blends contain nine to ten volume percent ethanol from June 1st through Sept 15th.

(ii) 1.0 psi, when gasoline-ethanol blends contain one up to and including fifteen volume percent ethanol for volatility classes A, B, C, and D from September 16th through May 31st.

(iii) 0.5 psi, for gasoline-ethanol blends containing one up to and including fifteen volume percent ethanol for volatility class E from September 16th through May 31st.

(iv) Vapor pressure exceptions will remain in effect until ASTM incorporates changes to the vapor pressure maximums for gasoline-ethanol blends.

(c) Section 2.2, the Department adopts by reference ASTM D975-17 "Standard Specification for Diesel Fuel Oils".

(d) Section 4.4.2, If the standard color code is adopted, no color key posting is required

R70-940-3. Storage Tank Preparation.

(1) Retail storage tanks and equipment must be cleaned and purged prior to first introduction of fuel meant for sale or

(2) Purged when switching from one type or grade of fuel to another.

(3) Access to the bottom of a retail storage tank shall remain unobstructed such that any phase separated water content may be measured or detected from the fill connection.

R70-940-4. Certification, Documentation, and Labeling.

(1) Certification and documentation of motor fuels shall be made in accordance with 16CFR Part 306, "Automotive Fuel Ratings, Certification, and Posting".

(2) Labeling shall be regulated in accordance with requirements in the 2017 version of NIST Handbook 130: "Uniform Laws and Regulations in the area of legal metrology and engine fuel quality", Chapter IV, Part G, "Uniform Engine Fuels and Automotive Lubricants Regulation".

KEY: inspections, motor fuel

Date of Enactment or Last Substantive Amendment: [~~December 23, 2010~~2018

Notice of Continuation: August 2, 2016

Authorizing, and Implemented or Interpreted Law: 4-33-4

Health, Family Health and
Preparedness, Licensing
R432-2-5
Requirements for a Satellite Service
Operation

NOTICE OF PROPOSED RULE

(Amendment)

DAR FILE NO.: 42397

FILED: 12/18/2017

RULE ANALYSIS

PURPOSE OF THE RULE OR REASON FOR THE CHANGE: The purpose of this amendment is to allow for healthcare corporations, that own more than one licensed hospital in Utah, to have up to two satellite freestanding emergency departments attached to one hospital, but not to exceed the number of licensed hospitals the healthcare corporation owns. The Health Facility Committee reviewed and approved this rule amendment on 11/08/2017.

SUMMARY OF THE RULE OR CHANGE: The purpose of this amendment is to allow for healthcare corporations, that own more than one licensed hospital in Utah, to have up to two satellite freestanding emergency departments attached to one hospital, but not to exceed the number of licensed hospitals the healthcare corporation owns.

STATUTORY OR CONSTITUTIONAL AUTHORIZATION FOR THIS RULE: Title 26, Chapter 21

ANTICIPATED COST OR SAVINGS TO:

◆ **THE STATE BUDGET:** State government hospital licensing process was thoroughly reviewed. This proposed rule amendment will not change how many total satellite emergency departments can be licensed in Utah, therefore, the proposed rule amendment is not expected to impact state revenues or expenditures.

◆ **LOCAL GOVERNMENTS:** Local governments city business licensing requirements were considered. This proposed rule amendment will not change how many total satellite emergency departments can be licensed in Utah, therefore, the proposed rule is not expected to impact local government's revenues or expenditures.

◆ **SMALL BUSINESSES:** After conducting a thorough analysis, it was determined that this proposed rule amendment will not result in a fiscal impact to small businesses budgets because all licensed hospitals in Utah employ more than 50 people.

◆ **PERSONS OTHER THAN SMALL BUSINESSES, BUSINESSES, OR LOCAL GOVERNMENTAL ENTITIES:** This rule amendment could lead to a benefit for healthcare corporations that own more than one licensed hospital as it may provide greater flexibility as to the placement of satellite emergency departments, however, with all the variables, this is an inestimable benefit. Individuals in need of emergency department services may benefit from having a satellite emergency department in their area. This possibly could lead to better outcomes from serious emergency health issues which may lead to lower health costs in the future, however, with all the variables, this is an inestimable benefit. There would be no anticipated increased cost for health insurance companies. Better outcomes from serious emergency health issues may lead to lower costs for health insurance companies in the future, however, with all the variables, this also is an inestimable benefit.

COMPLIANCE COSTS FOR AFFECTED PERSONS: After conducting a thorough analysis, it was determined that this proposed rule amendment will not result in a fiscal impact to